In the High Court of Judicature at Madras

Dated: 14.12.2006

Coram:

The Honourable Mr.Justice P.SATHASIVAM
and
The Honourable Mr.Justice S.TAMILVANAN

Writ Appeal No.431 of 2002

1. State of Tamil Nadu, rep.by
   Secretary to Government,
   Revenue Department,
   Madras-600 009.

2. The Commissioner for Land
   Administration,
   Chepauk, Madras-600 005.

3. District Collector of
   Tiruvannamalai Sambuvarayar
   District, Tiruvannamalai.

4. Revenue Divisional Officer,
   Cheyyar, Tiruvannamalai
   Sambuvarayar District.

5. Tahsildar,
   Arni, Tiruvannamalai
   Sambuvarayar District. ..Appellants

..vs..

1. S.Mani
2. S.Rani ..Respondents

Writ Appeal filed under Clause 15 of the Letters Patent, against the Order passed in W.P.No.15908 of 1994 dated 25.07.2001 Writ of Certiorarified Mandamus calling for the records of the first respondent made in G.O.Ms.No.426, Revenue Department, dated 05.07.1994 and quash the portion in so far the fixation of the value of the land and the extent of the land is concerned and consequently direct the respondents to issue patta after receiving the amount at the rate of Rs.3.75 per square feet for a total extent of 2181 square feet comprised in Survey number 64/1 of Arni town of Tiruvannamalai District.

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For Appellants : Mr.K.Ilango, Spl.G.P.,
For Respondents : Mr.A.Jenasenan

JUDGMENT

(Judgment of the Court was delivered by P.SATHASIVAM, J.,)

The above Writ Appeal is directed against the Order of the learned single Judge dated 25.07.2001 made in W.P.No.15908 of 1994, in and by which, the learned Judge allowed the writ petition and directed the respondents therein to assign the lands and issue patta to an extent of 1054 sq.ft.to the 1st petitioner and 717 sq.ft.to the 2nd petitioner in Survey No.64/1, Arni Town, Tiruvannamalai District at the rate of Rs.3.75 per sq.ft.and the said order of assignment shall be made within a period of two months from the date of receipt of a copy of that order.

2. Heard the learned Special Government Pleader for appellants and respondents.

3. The only point for consideration in this appeal is whether the learned Judge is justified in issuing direction to the respondents for assignment of a particular land at the rate of Rs.3.75 per sq.ft.

4. It is seen that both the writ petitioners / respondents in this writ appeal, after occupying the land of the Government, constructed a house and living there. The properties situate in Ward 2 Block 18 of Town Survey No.64 of Arni Taluk, Tiruvannamalai District. It is also their claim that though they have made an application for grant of patta long ago, only after Order of this Court dated 17.03.1994 in W.P.No.4513 of 1994, the Government passed an order in G.O.Ms.No.426 Revenue dated 05.07.1994, fixing higher rate and directed both the petitioners to pay a sum of Rs.53,435/- and Rs.49,320/- respectively as land value.

5. The first paragraph of the Government Order makes it clear that both the writ petitioners, after constructing a house, have been residing in the land in question and that was the reason they applied for patta. Since there was no proper response with reference to the claim of the petitioners, they approached this Court by way of writ petition in W.P.No.4513 of 1994 and ultimately, by order dated 17.03.1994, after recording the factual information, namely, that the competent authority, after physical verification and inspection even in the year 1997 recommended to the respondents for issuance of necessary patta to the petitioners after receipt of market value from them, directed the Government to consider the same and pass appropriate orders. While considering the impugned G.O.dated 05.07.1994, the learned Judge heavily relied on the earlier order passed in W.P.No.4513 of 1994. Though the learned Special Government Pleader submitted that the recommendation of

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the Sub Collector for assignment of the land at the Rate of Rs.3.75 per sq.ft.is not feasible and it is for the Government to decide the rate, as rightly pointed out by the learned counsel for the respondents / writ petitioners, the order of the Government dated 05.07.1994 does not disclose any material to arrive at a conclusion that the land in question being used for commercial purpose. Either in the said order or before us, any material was placed to show that the land is being used for commercial purpose and the writ petitioners are getting sizeable income. In such circumstances, we are of the view that the Sub Collector, who inspected the land in question and verified the records, is competent to recommend the market value payable by the writ petitioners. The Sub Collector, Cheyyar, in his Proceedings dated 27.11.1987, recommended to the higher authorities for assignment at the rate of Rs.3.75 per sq.ft. We have already referred to the reasoning and fixing the rate i.e. Rs.3.75 per sq.ft. by the Sub Collector, Cheyyar. The same was relied on by this Court in the earlier Order dated 17.03.1994.

6. As observed earlier, in the absence of any material to show that the land is being used for commercial purpose, fixing the rate at Rs.58.30 per sq.ft. by the Government cannot be sustained. All these aspects have been duly considered by the learned Judge and granted relief in favour of the writ petitioners. We are in entire agreement with the said conclusion. Consequently, the writ appeal fails and the same is dismissed. No costs.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1. The Secretary to Government,
Revenue Department,
Fort St.George, Chennai-9.

2. The Commissioner for Land Administration,
Chepauk, Chennai -5.

3. The District Collector,
Tiruvannamalai, Sambuvarayar District,
Tiruvannamalai.

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4. The Revenue Divisional Officer,
Cheyyar, Tiruvannamalai Sambuvarayar District.

5. The Tahsildar,
Arani, Tiruvannamalai Sambuvarayar District.

1 cc To Mr.A.Jenasenan, Advocate, SR.62545.
1 cc To The Government Pleader, SR.62341.

Writ Appeal No.431 of 2002

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RVL 22.12.2006

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